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FILE NO. 85-021

SCHOOLS AND SCHOOL DISTRICTS:
Municipal Police Protection of
School District Property

Honorable Michael J. Madigan
Speaker, Illinois House of Representatives
316 Capitol
Springfield, Illinois 62706

Dear Speaker Madigan:

I have your letter wherein you inquire regarding section 16-8 of The School Code (Ill. Rev. Stat. 1983, ch. 122, par. 16-8), which provides, inter alia, that cities, villages and incorporated towns situated within a school district shall exercise police control and protection over school district property located outside of, but within one mile of, the corporate limits of such municipalities. Specifically, you pose the following questions:

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1. Under section 16-8 of The School Code, does a county sheriff also have jurisdiction and responsibility for the protection of school district property located within one mile of a municipality?
2. Does a municipality which furnishes police protection to school district property in accordance with section 16-8 of The School Code incur any additional liability for its acts or omissions?
3. If particular property lies outside of municipal corporate limits, but within one mile of two municipalities, are both required to provide police protection to the property? If so, may a school district request that one or the other provide such protection?

Section 16-7 of The School Code (Ill. Rev. Stat. 1983, ch. 122, par. 16-7) authorizes school districts of not more than 500,000 population to acquire real estate for the purpose of establishing playgrounds, recreational grounds and athletic fields, including structures appropriate for such purpose.

(See Moyer v. Board of Education (1945), 391 Ill. 156.)

Section 16-8 of The School Code provides:

"The school board of any such school district acquiring real estate and equipping, operating and maintaining it for the purposes provided in Section 16-7 shall have supervision over such playgrounds, recreation grounds or athletic fields, may employ play leaders, playground directors, supervisors, recreation superintendents or athletic directors therefor, and may take such steps to provide for the protection, sanitation, care and management thereof as it deems appropriate.

If real estate and improvements thereon, including buildings, parking lots, other improvements and equipment so acquired lies partly or wholly outside and within 1 mile of the corporate

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limits of any city, village or incorporated town situated in such district, such city, village or incorporated town shall exercise police control and protection over such real estate and improvements thereon, including buildings, parking lots, other improvements and equipment in the same manner and to the same extent that such city, village or incorporated town would exercise police control and protection thereover if such real estate and improvements thereon, including buildings, parking lots, other improvements and equipment were situated within the corporate limits thereof."

Although a municipal police force is ordinarily responsible only for the enforcement of the law within the municipality's corporate limits (see People v. Clark (1977), 46 Ill. App. 3d 240), section 16-8 of The School Code expressly requires a municipality to afford police protection to school district property located outside of the municipality in the circumstances set forth therein, and thus permits the extraterritorial exercise of the police force's authority.

In response to your first question, it is well established that the jurisdiction of a county sheriff is coextensive with the territory of the county, and includes all municipalities and townships located within the county. (In re Sulzmann (S.Ct. Ohio 1932), 183 N.E. 531, 532; People v. Pina (Ct. App. Cal. 1977), 140 Cal. Rptr. 270, 273; People v. Scott (Ct. App. Cal. 1968), 66 Cal. Rptr. 257, 265; see People ex rel. Rexses v. Cermak (1925), 239 Ill. App. 195.) It is the duty of a sheriff as conservator of the peace to maintain law

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and order throughout the county, and to suppress and prevent breaches of the peace. (See State ex rel. Windham v. LaFever (S.Ct. Tenn. 1972), 486 S.W.2d 740, 744; State v. Reichman (S.Ct. Tenn. 1916), 188 S.W. 225, 228, reh'g denied, 188 S.W. 597 (1916); see also South v. Maryland (1855), 51 U.S. 396, 402.) The power of a sheriff to enforce the law and keep the peace within the corporate limits of a municipality is the same as in the remainder of the county, even though the municipality maintains a police force. State v. Reichman (S.Ct. Tenn. 1916), 188 S.W. 225, 228, reh'g denied, 188 S.W. 597 (1916).

The intent of section 16-8 of The School Code is to place the primary responsibility for the protection of school district property located within one mile of the corporate limits of a municipality upon the municipal police force, if one is maintained. Given the proximity of such property to the municipality, this delegation of authority is rational and logical, and promotes the security of the property and its users. Section 16-8 does not, however, expressly or impliedly remove such property from the concurrent jurisdiction of the sheriff. Therefore, it is my opinion that, under section 16-8 of The School Code, both the sheriff and a municipality situated within the school district have jurisdiction over school district property located within one mile of the corporate limits of the municipality. Because the sheriff has

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jurisdiction over such property, he may exercise his powers as conservator of the peace to enforce the law and prevent and suppress breaches of the peace occurring on the property.

It should be noted that, although the sheriff retains jurisdiction over school district property located within one mile of a municipality, the principal responsibility for policing such property is placed upon the municipal police force. Where a municipal police force has jurisdiction over territory within the county, the sheriff may assume that such officers will perform their duty to detect crime and apprehend offenders, and he need not maintain the same vigilance over such territory as is required in other parts of the county.

(State v. Reichman (S.Ct. Tenn. 1916), 188 S.W. 225, 228, reh'g denied, 188 S.W. 597 (1916); Commonwealth ex rel. Davis v. Malbon (S. Ct. Va. 1953), 78 S.E.2d 683, 686-87; see People ex rel. Rexses v. Cermak (1925), 239 Ill. App. 195, 199-200.)

Thus, it is no neglect of duty for a sheriff to leave the protection of school district property within the jurisdiction of a municipality to the municipality's police force, unless he knows that such officers are not performing their duties with respect to such property. State v. Williams (S. Ct. Mo. 1940), 144 S.W.2d 98, 104, 105.

In response to your second question, section 16-8 of The School Code requires a municipality to exercise police

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control over school property located outside of its boundaries in the same manner and to the same extent as if the property were located within its corporate limits. Clearly, such property is to be treated, for purposes of rendering police protection under section 16-8, precisely as if it were located within the corporate limits of the municipality. Therefore, it is my opinion that a municipality, in providing police protection to school district property located within one mile of its corporate limits, is liable for the acts or omissions of members of its police force only to the extent it would be liable if the property were located within the municipality. (See, e.g., Ill. Rev. Stat. 1983, ch. 85, par. 1-101 et seq.; see also Marvin v. Chicago Transit Authority (1983), 113 Ill. App. 172; Glover v. City of Chicago (1982), 106 Ill. App. 3d 1066; Jamison v. City of Chicago (1977), 48 Ill. App. 3d 567.) A municipality incurs no additional or special liability when it exercises police control over school district property pursuant to section 16-8 of The School Code.

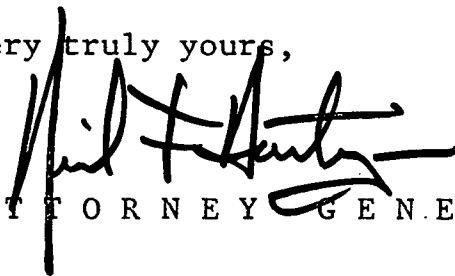
In response to your final question, section 16-8 provides that whenever school district property lies outside of, but within one mile of, the corporate limits of a municipality situated within the school district, the municipality shall provide police protection to the property. Assuming that certain school district property lies outside of, but within

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one mile of the corporate limits of two municipalities situated within the school district, section 16-8 of The School Code does not excuse either municipality from providing police protection to the property. Thus, it is my opinion that both municipalities are responsible for providing police protection as required by statute.

Moreover, the school district owning the property is not authorized by statute to designate one of the municipalities to exercise sole control over the property in question. In order to avoid duplication of services, however, the school district, in conjunction with the municipalities, may agree to a division of responsibility for the protection of school district property. (See Ill. Const. 1970, art. VII, § 10; Ill. Rev. Stat. 1983, ch. 127, par. 741 et seq; see also 1980 Ill. Att'y Gen. Op. 60; 1974 Ill. Att'y Gen. Op. 60.) In the absence of such an agreement, both municipalities are required to exercise police control and protection over the property.

Very truly yours,



A T T O R N E Y G E N E R A L